



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

5HR-11

MAR 31 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Satish Shah
54784 County Road 13, South
Elkhart, Indiana 46514


Re: Property Located at 2600 Industrial Parkway
Elkhart, Indiana

Dear Mr. Shah:

Enclosed is a copy of the fully executed Administrative Order regarding the above-referenced facility. The Order was issued by the United States Environmental Protection Agency (U.S. EPA) pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9606, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA). The Order requires the Respondent to complete a removal action which addresses soil and groundwater contamination.

If you have any comments or questions about this matter, please contact Charles McKinley, Assistant Regional Counsel, at (312) 353-6126.

Sincerely yours,


Basil G. Constantelos, Director
Waste Management Division

cc: Sam Rodino, Esquire
314 W. Lexington Ave.
Elkhart, Indiana 46516



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Nancy Maloley
Commissioner
Indiana Department of Environmental
Management
105 South Meridian Street
Indianapolis, Indiana 46225


Re: Property Located at 2600 Industrial Parkway
Elkhart, Indiana

Dear Ms. Maloley:

Enclosed is a copy of the fully executed Administrative Order regarding the above-referenced facility. The Order was issued by the United States Environmental Protection Agency (U.S. EPA) pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9606, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA). The Order requires the Respondent to complete a removal action which addresses soil and groundwater contamination.

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314 W. Lexington Ave.
Elkhart, Indiana 46516

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF :

PROPERTY LOCATED AT
2600 INDUSTRIAL PARKWAY
ELKHART, INDIANA

ACCRA-PAC, Inc

Respondent

5/13/88
PROCEEDING UNDER SECTION 106(a)
OF THE COMPREHENSIVE ENVIRONMENTAL
RESPONSE, COMPENSATION, AND
LIABILITY ACT OF 1980, 42 U.S.C.
§ 9606(a)

DOCKET NO. JW 88C 004

ADMINISTRATIVE ORDER

This Administrative Order is issued to Accra-Pac, Inc., an Indiana corporation, pursuant to the authority vested in the President of the States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub.L.99-499, 100 stat.1613 (1986) (SARA) and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, redelegated to the Regional Administrator by Delegation Nos. 14-14, and 14-14-A, and in turn, redelegated to the Director, Waste Management Division by Delegation No. 14-14-B. Notice of Issuance of this Order has been given to the State of Indiana.

IN THE MATTER OF :

PROPERTY LOCATED AT
2600 INDUSTRIAL PARKWAY
ELKHART, INDIANA

ACCRA-PAC, Inc

Respondent

PROCEEDING UNDER SECTION 106(a)
OF THE COMPREHENSIVE ENVIRONMENTAL
RESPONSE, COMPENSATION, AND
LIABILITY ACT OF 1980, 42 U.S.C.
§ 9606(a)

DOCKET NO.

This Administrative Order is issued to Accra-Pac, Inc., an Indiana corporation, pursuant to the authority vested in the President of the States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub.L.99-499, 100 stat.1613 (1986) (SARA) and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, redelegated to the Regional Administrator by Delegation Nos. 14-14, and 14-14-A, and in turn, redelegated to the Director, Waste Management Division by Delegation No. 14-14-B. Notice of Issuance of this Order has been given to the State of Indiana.

This Administrative Order requires the respondent to complete emergency removal activities at property described herein located in Elkhart, Indiana so as to abate an imminent and substantial endangerment arising from contaminated soil on the property.

DETERMINATIONS AND FINDINGS

1. The property that is the subject of this Order is located at 2600 Industrial Parkway, Elkhart, Indiana. Buildings formerly at the site were destroyed by fire. Thirteen underground storage tanks were emptied and removed during 1986-1987 pursuant to an Administrative Order by Consent between Warner Baker and U.S. EPA, Docket No. V-W-86-C-018/ (the prior order). Said site constitutes a "Facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and shall hereinafter be referred to as the "Facility."

2. The respondent in the prior order, Warner Baker, is deceased, and upon information and belief, the estate of Warner Baker is the present owner of the Facility within the meaning of Section 101(20) and 107(a)(1) of CERCLA, 42 U.S.C. §§ 9601 (20) and 9607(a)(1).

3. As of July, 1987, 13 underground storage tanks had been emptied and removed from the facility and monitoring wells had been installed in accordance with the prior order. However, removal activities regarding the contaminated piping and contaminated soil at the Facility have not been performed, as required by the prior order.

4. The immediate area surrounding the Facility is industrial, though residences are located within 1/4 mile of the Facility. Many of these residences formerly obtained drinking water from private wells located generally down-gradient from the Facility. In August, 1985, sampling of water from these private wells revealed that several were contaminated with trichloroethylene at unsafe levels. U.S. EPA responded to this discovery by funding a project to provide these residences with hook-ups to the Elkhart public water supply.

5. Access to the Facility is poorly restricted and public roadways are located immediately to the south and west of the Facility. Piles of contaminated soil remain at the Facility as well as open pits from which the 13 tanks were removed.

6. Hazardous substances at the Facility have been deposited, stored, disposed of, placed or located in such a manner that there may be imminent and substantial endangerment to public health or welfare or the environment due to an actual or threatened release of said hazardous substances and wastes from the Facility into the soil, ground water and other parts of the environment. Persons located in the vicinity of the Facility are threatened in several ways from the presence of hazardous substances. Easy access to the Facility could result in persons coming into direct skin contact with the hazardous substances, or inhaling harmful vaporous emissions released from the hazardous substances at the Facility. The presence of hazardous substances in the

of hazardous substances in the soils at the Facility and the extremely sandy nature of these soils present a significant threat of contamination to ground water downgradient of the Facility. The open pits, the piles of contaminated piping, and the poor condition of snow fencing surrounding the pits also pose a danger.

7. Respondent, Accra-Pac, Inc., was the owner of the facility, within the meaning of Section 101(20) of CERCLA, 42 USC § 9601(20), at the time of disposal of hazardous substances at said facility, including those contaminating the soils, and is liable for all costs of removal and remediation, pursuant to Section 107(a)(2) of CERCLA, 42 USC § 9607(a)(2).

8. In order to protect the public health and welfare and the environment, it is necessary that the following actions be taken to eliminate the actual or threatened releases of hazardous substances from the Facility into the environment. These actions are consistent with the National Contingency Plan, 40 CFR Part 300.

ORDER

Based upon the foregoing Determinations and Findings, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a) it is hereby Ordered that the following actions be undertaken at the Facility:

1. Within five (5) days after the effective date of this Administrative Order, Respondent shall remove and properly dispose of the contaminated piping. In addition, the fencing at the site shall be repaired so as to inhibit access to the contaminated soil piles and open pits, within the same five (5) day period.
2. Within fourteen (14) days after the effective date of this Administrative Order, Respondent shall submit to U.S. EPA a plan to study and determine the nature and extent of the remaining soil contamination and any ground water contamination. This plan shall describe the activities to be undertaken, which may include but are not limited to soil borings, monitoring wells, soil gas monitoring or other appropriate technology, and shall include a proposed schedule of implementation and completion. Should U.S. EPA determine that said plan requires revisions, Respondent shall make any such revisions and submit a revised plan within seven (7) days after written notification from U.S. EPA specifying any such revisions.
3. Within 30 days after approval of the plan by U.S. EPA, Respondent shall begin its implementation. Upon completion of the activities set forth in the plan, Respondent shall submit a written report describing the results of the study and setting forth its conclusions and recommendations for removal/remediation actions at the Facility.
4. Within thirty (30) days after approval by the U.S. EPA of the written report, as submitted or revised, implementation of the removal/

remediation actions concerning the contaminated soil shall begin, pursuant to the approved report.

5. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Administrative Order, or from taking other legal or equitable action as it deems appropriate and necessary under any of its authorities, including action under Section 3008 of RCRA, 42 U.S.C. § 6928, or from requiring the Respondent in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. § 9601, et seq., or any other applicable law.

6. U.S. EPA reserves the right to seek cost recovery against the Respondent for response costs incurred by U.S. EPA at this site or any other response costs for which Respondent may be liable under Section 107 of CERCLA, 42 U.S.C. §9607.

7. The provisions of this Administrative Order shall be binding on the Respondent, its employees, agents, successors, and assignees.

8. Within ten (10) days after the effective date of this Order, U.S. EPA and Respondent shall each designate a Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of this Order. The U.S. EPA Project Coordinator will be U.S. EPA's designated representative at the Site. To the maximum extent possible, communications between the Respondent

and U.S. EPA, and all documents, including reports, approvals, and other correspondence concerning the activities pursuant to the terms and conditions of this Order, shall be directed through the Project Coordinators. U.S. EPA and the Respondent each have the right to change their respective Project Coordinator. Such a change shall be accomplished by notifying the other party in writing.

All notices, plans, and reports submitted to U.S. EPA under the terms of this Administrative Order shall be sent by certified mail, return receipt requested, and addressed to the following:

U.S. EPA
Kenneth Theisen, 5HR
Emergency and Remedial Response Branch
230 S. Dearborn Street
Chicago, Illinois 60604

The U.S. EPA designated "On-Scene Coordinator", who may be the U.S. EPA Project Coordinator, shall have the authority vested in the On-Scene Coordinator by the National Contingency Plan, 40 C.F.R. Part 300 et seq., 47 Federal Register 31180 July 16, 1982. This includes the authority to halt, conduct, or direct any tasks required by this Order and/or any response actions or portions thereof when conditions present an immediate risk to public health or welfare or the environment. The absence of the U.S. EPA On-Scene Coordinator from the Site shall not be cause for the stoppage of work.

9. The Respondent shall preserve, during the pendency of this Order and for a minimum of six (6) years after its termination, all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys which relate in any way to the site, despite any document retention policy to the contrary.

After this six year period, the Respondent shall notify U.S. EPA within 30 calendar days prior to the destruction of any such documents. Upon request by U.S. EPA, the Respondent shall make available to U.S. EPA such records or copies of any such records. Additionally, if U.S. EPA requests that some or all documents be preserved for a longer period of time, the Respondent shall comply with such request.

PENALTIES FOR NONCOMPLIANCE

Respondent is advised that pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), failure to comply with this Order, or any portion thereof, may subject it to a civil penalty of not more than \$25,000 per day for each day in which it fails to comply. Failure to comply with this Administrative Order, or any portion thereof, without sufficient cause may also subject Respondent to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of Respondent's failure to take proper action,

pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3).

ADMINISTRATIVE RECORD

The Administrative Record supporting the above Determination and Findings is available for review on weekdays between the hours of 8:30 a.m. and 5:00 p.m., in the Office of Regional Counsel, 3rd Floor, United States Environmental Protection Agency, Region V, 111 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mr. Charles McKinley, Assistant Regional Counsel, at (312) 886-6613, if you desire to review the Administrative Record.

OPPORTUNITY TO CONFER

With respect to the actions required above, you may, within five (5) business days after issuance of this Administrative Order, request a conference with U.S. EPA to discuss this Administrative Order and its applicability to you. Any such conference shall be held within five (5) days from the date of request. At any conference held pursuant to your request, you may appear in person or by an attorney or other representative. If you desire such a conference, please contact Mr. Charles McKinley, Assistant Regional Counsel.

Any comments which you may have regarding this Administrative Order, its applicability to you, the correctness of any factual determinations

determinations upon which the Order is based, the appropriateness of any action which you are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA within three (3) business days following the conference, or if no conference is requested, within five (5) business days following the issuance of this Administrative Order. Any such writing should be directed to:

Charles McKinley
Assistant Regional Counsel
U.S. EPA, Region V, 5CS-TUB
200 S. Dearborn Street
Chicago, Illinois 60604

You are hereby placed on Notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondent may be liable under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for the costs of those government actions.

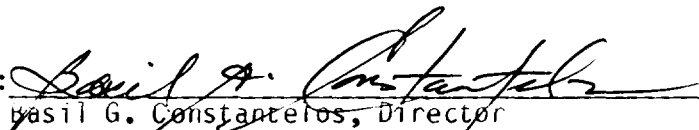
EFFECTIVE DATE

This Administrative Order shall be effective on the fifth (5th) business day following issuance unless a conference is requested as provided herein. If a conference is requested, this Administrative Order shall be effective on the fifth (5th) business day following the day of the conference unless modified by the Regional Administrator.

On or before the effective date of this Administrative Order, Respondent shall provide notice in writing to U.S. EPA stating its intention to comply with the terms hereof. In the event the Respondent fails to provide such notice, said Respondent shall be deemed not to have complied with the terms of this Administrative Order.

Witness my hand in the City of
Chicago, State of Illinois, on
this 25th day of
March 1988.

By:


Basil G. Constantelos, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V